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PRE-APPEAL BRIEF REQUEST FOR REVIEWDocket Number (Optional)
31083.10US2

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on FILED VIA EFS-WEB - January 9, 2012Signature Gladys Negron-MunozTyped or printed name Gladys Negron-Munoz

Application Number

10/584,417

Filed

06/23/2006

First Named Inventor
Andrew Thomas

Art Unit

3627

Examiner

Sheikh, Asfand M.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

X

This request is being filed with a notice of appeal.

X

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

X

I am the

applicant/inventor.

assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

attorney or agent of record.
Registration number 35,906

attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

/Gary R. Jarosik/

Signature

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Telephone number

January 9, 2012

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below.

*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Thomas)	Examiner:	Sheikh, Asfand M.
))
Application No.:	10/584,417))	Attny Doc.: 31083.10US2
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Filing Date:	June 23, 2006))	Art Unit: 3627
))
Title:	System And Method For Managing The Delivery Of Order For Goods)))
))

PRE-APPEAL REVIEW REQUEST

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In connection with a Request For Pre-Appeal Review filed herewith, please consider the Remarks which begin on page 2 of this paper.

A Notice of Appeal is being filed herewith.

The Commissioner is authorized to charge any fee deficiency to deposit account number 50-2428 in the name of Greenberg Traurig, LLP.

Certificate of Electronic Transmission: I hereby certify that this document and is being electronically transmitted to the U.S. Patent and Trademark Office via EFS-Web on this 9th day of January 2012.

_____/Gladys Munoz/_____
Gladys Munoz

REMARKS

In the application claims 1, 4, 5, 10, 11, 13-21, 42, and 43 remain pending. Claims 2, 3, 6-9, 12, and 22-41 have been canceled without prejudice.

The pending claims currently stand rejected under 35 U.S.C. § 103 as being rendered obvious primarily by DeMaggio (U.S. Patent No. 7,292,989) in view of Applicant's Admitted Prior Art ("AAPA") in further view of Kahn (U.S. Patent No. 7,395,273).

In the rejection of the claims, it was acknowledged that DeMaggio does not disclose, teach, or suggest one or more self-service drop-off containers having an associated inventory control system where the inventory control system logically checks off each good in an order for goods when the order for goods is deposited into the one or more self-service drop-off containers against a list of goods as indicated by a committed manifest. It was, however, asserted that these claimed elements are disclosed in AAPA.

In response, it is respectfully submitted that the "Background" section of the subject application does not disclose or describe one or more self-service drop-off containers having an associated inventory control system *where the inventory control system logically checks off each good in an order for goods when the order for goods is deposited into the one or more self-service drop-off containers.*

In the "Background" section of the subject application, it is only stated that "[a] further system for monitoring inventory of storage units, such as mailboxes, bins, and shelves, is described in published U.S. Application No. 2003/0052778."

It is respectfully submitted that this statement never *admits* that an inventory control system that logically checks off each good in an order for goods when the order for goods is deposited into one or more self-service drop off containers is known or otherwise found in the prior art as asserted and relied upon in rejecting the claims at issue.

It is additionally respectfully submitted that, when cited to U.S. Application No.

2003/0052778 ("Wong") is actually considered, Wong does not disclose, teach, or suggest an inventory control system that logically checks off each good in an order for goods when the order for goods is deposited into one or more self-service drop off containers. Rather, Wong discloses a system wherein sensors report to a computer that *something* was placed into a mailbox or the like and the computer then functions to notify a user, e.g., via email, phone, etc., to the fact that *something* was placed into the mailbox or the like at an indicated time. (Paras. 0094-0106 and 0110). As will be appreciated, because the system as described in Wong, which functions only to inform a user that *something* was placed into a mailbox or the like at a sensed time, does not use any device that functions to logically check-off each good in an order for goods when the order for goods is deposited into a self-service drop off container, Wong itself evidences that, to one of ordinary skill in the art, a system that simply monitors a storage unit does not require a form of logically checking *each good in an order for goods when the order for goods is deposited into a self-service drop off container* as asserted. (OA; pg. 2).

In summary, because neither the "Background" section of the subject application nor Wong disclose or describe *anything* "checking off each good in an order for goods," let alone an inventory control system that checks off each good in an order for goods "*when the order for goods is deposited* into a drop-off container," it is respectfully submitted that the rejection of the claims fails to present a *prima facie* case of obviousness and the rejection under 35 U.S.C. § 103 must be withdrawn.

It is additionally respectfully submitted that, while Kahn discloses a system that generally provides for receipt inspection reporting, contrary to the assertion made in the Office Action Kahn does not disclose, teach, or suggest an inventory control system automatically generating and sending a communication alert to a security monitoring system when it is determined that too few expected or unexpected goods are included within the

received order for goods. Rather than describe anything *automatically generating* and *sending a communication alert*, particularly to a security monitor system in response to it being determined that too few expected or unexpected goods are included within a received order for goods, cited to Col. 7, lines 26-57 of Kahn only describes *storing* receipt inspection reporting data in a database to thereby allow the receipt inspection data to be reviewed *and manually approved before being reported to a party*. Thus, because Kahn fails to disclose these claimed elements that have been acknowledged to be missing from DeMaggio in the first instance, it is respectfully submitted that the rejection of the claims fails to present a *prima facie* case of obviousness and the rejection under 35 U.S.C. § 103 must be withdrawn.

CONCLUSION

It is respectfully submitted that the application is in good and proper form for allowance. Such action on the part of the Office is respectfully requested. .

Respectfully Submitted;

/Gary Jarosik/

Date: January 9, 2011

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